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*Counsel for Individual and Representative  
Plaintiffs and the Proposed Class*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Richard Kadrey, Sarah Silverman, Christopher  
Golden, Michael Chabon, Ta-Nehisi Coates, Junot  
Díaz, Andrew Sean Greer, David Henry Hwang,  
Matthew Klam, Laura Lippman, Rachel Louise  
Snyder, Ayelet Waldman, and Jacqueline Woodson,

*Individual and Representative Plaintiffs,*

v.

Meta Platforms, Inc., a Delaware corporation;

*Defendant.*

Case No. 3:23-cv-03417-VC

**PLAINTIFFS' MOTION FOR  
APPOINTMENT OF INTERIM LEAD  
CLASS COUNSEL**

Judge: Hon. Vince Chhabria

Date: January 25, 2024

Time: 10:00 a.m.

Dept.: Courtroom 4 – 17th Floor

## NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on January 25, 2024, at 10:00 a.m., or as soon thereafter as this matter may be heard, in Courtroom 4, 17th Floor, 450 Golden Gate Avenue, San Francisco, CA 94102, the Honorable Vince Chhabria presiding, Plaintiffs Richard Kadrey, Sarah Silverman, Christopher Golden, Michael Chabon, Matthew Klam, Rachel Louise Snyder, Ayelet Waldman, Ta-Nehisi Coates, Laura Lippman, Jacqueline Woodson, Junot Díaz and Andrew Sean Greer (“Plaintiffs”), will and hereby do, move the Court for an order appointing Joseph Saveri and the Joseph Saveri Law Firm, LLP (“JSLF”) as Interim Lead Class Counsel, pursuant to Federal Rule of Civil Procedure 23(g). All other counsel of record who have filed similar cases in the Northern District of California (i.e., Matthew Butterick, Esq., and Bryan L. Clobes of Cafferty Clobes Meriwether & Sprengel LLP (“CCMS”)) support the appointment of Joseph Saveri and JSLF as Interim Lead Class Counsel.

Plaintiffs respectfully submit that Mr. Saveri and JSLF should be appointed Interim Lead Class Counsel, as they satisfy the requirements under Rule 23(g) and shall fairly and adequately represent the interests of the class. Fed. R. Civ. P. 23(g)(4). Mr. Saveri, as well as JSLF, along with Mr. Butterick and Mr. Clobes, have done significant work in investigating potential claims in this action; have meaningful experience handling complex litigation of the type asserted in the action; have knowledge of the applicable law; and possess sufficient resources to represent the class. Fed. R. Civ. P. 23(g)(1)(A)(i)–(iv). Mr. Saveri and his team represent a small, nimble, and diverse team that will effectively and efficiently lead and prosecute this case to a successful conclusion.

This motion is based on this Notice, the following memorandum of points and authorities in support of the motion, and the concurrently filed Declaration of Joseph R. Saveri, and accompanying exhibits.

Dated: December 21, 2023

By: /s/ Joseph R. Saveri  
Joseph R. Saveri

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*Counsel for Individual and Representative  
Plaintiffs and the Proposed Class*

This complex litigation will require deft, flexible, and collaborative leadership to best ensure the most positive result for the proposed Class. The appointment of counsel for Plaintiffs and the proposed Class is an important organizational step in this complex case. Appointment of lead counsel at this juncture will ensure efficiency and the orderly progress of this litigation. Moreover, appointment of a single firm as lead counsel, with deep expertise in the substantive law and proven case-management skills, will best ensure the efficient prosecution of this case and will promote the interests of justice. Joseph Saveri and his law firm, the Joseph Saveri Law Firm, LLP (“JSLF”) combine the requisite credentials and expertise to most effectively advance this litigation. They are leaders in the field, with an unequalled track record of success. And they have the support of Matthew Butterick, Esq., and Bryan Clobes of Cafferty Clobes Meriwether & Sprengel LLP (“Cafferty Clobes”), who are also counsel of record in the related cases filed in the Northern District of California and in this recently consolidated proceeding.

Therefore, Plaintiffs Richard Kadrey, Sarah Silverman, Christopher Golden, Michael Chabon, Matthew Klam, Rachel Louise Snyder, Ayelet Waldman, Ta-Nehisi Coates, Laura Lippman, Jacqueline Woodson, Junot Díaz and Andrew Sean Greer (“Plaintiffs”) seek an order appointing Joseph Saveri of JSLF as Interim Lead Class Counsel. Mr. Saveri, along with JSLF, have done significant work in identifying and investigating potential claims; have significantly advanced the underlying litigation; have and are supported by an experienced team of attorneys, including Matthew Butterick, Bryan Clobes and his firm Cafferty Clobes; have knowledge of the applicable law; and possess significant resources to represent the Class. *See* Fed. R. Civ. P. 23(g)(1)(A)(i)–(iv). They comprise a small, nimble, and diverse team that will effectively and efficiently prosecute this case to successful conclusion. Plaintiffs’ proposed structure will promote efficiency, serve the Class’s best interests, and advance the goals of Rule 1 of the Federal Rules of Civil Procedure.

## I. INTRODUCTION

Plaintiffs propose Mr. Joseph Saveri and his law firm, JSLF, as Interim Lead Class Counsel. A leadership structure consisting of a single lead counsel will provide clear lines of responsibility, protect the interests of the Proposed Class, promote the goals of judicial economy and efficiency, and facilitate and ensure the sound management of the underlying action.

Mr. Saveri is among the most skilled and experienced class action attorneys in the United States and is at the forefront of litigation challenging generative artificial intelligence (“AI”). He, along with Matthew Butterick, were the first to file cases challenging Meta’s generative AI products (i.e., the Llama models). Mr. Saveri and JSLF have a long record of success, and have represented consumers, entrepreneurs, small businesses, and others. They are experienced in not only efficiently managing and leading large complex litigation, but also in achieving substantial recoveries for plaintiff classes.<sup>1</sup>

Mr. Saveri and JSLF have the support of the other counsel of record, who have also filed cases challenging Meta’s Llama AI products. Matthew Butterick, who supports the appointment of Mr. Saveri and JSLF as lead counsel, is not only a lawyer, but also possesses decades of experience in software, writing, and the visual arts, which enabled him to be among the first lawyers to draw attention to the legal problems posed by generative AI. Bryan L. Clobes, and Cafferty Clobes, who also support the appointment of Mr. Saveri and JSLF as lead counsel, and who filed the first related case in this Court, have led, litigated, and secured substantial classwide recoveries in scores of national antitrust and class cases in this Court and in courts throughout the country.<sup>2</sup>

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<sup>1</sup> Detailed declarations and résumés for the proposed leadership firm is attached to the Declaration of Joseph R. Saveri (“Saveri Decl.”), filed herewith.

<sup>2</sup> Bryan L. Clobes has led his firm in many successful national class cases, including *In re Visacheck* and *Mastermoney Antitrust Litigation* (E.D.N.Y.) (\$3.2 billion settlement on behalf of national class of retailers and merchants).

JSLF has already been effectively coordinating, managing and advancing the underlying action, and has already devoted substantial resources to the case, in the form of multiple filings, early discovery, and substantial motion practice. JSLF will minimize duplication and promote efficiency, including by organizing shared document databases, coordinating review of documents, and other discovery and trial techniques.

In addition, JSLF is committed to improving diversity in our practice and developing early-career lawyers to shape them into experienced practitioners and leaders. Indeed, JSLF has demonstrated this commitment in numerous recent cases, including the jury trial before Judge Donato in *In re Capacitors Antitrust Litigation*, and in *In re Juul Labs, Inc. Antitrust Litigation* before Judge Orrick, as well as in other complex cases<sup>3</sup> and numerous *pro bono* cases pending here and in many other districts. The proposed team litigating this case includes talented attorneys, paralegals, investigators, and other professional staff. This experienced, talented and diverse team, under the direction of seasoned leadership, will ensure that all work is timely, cost-effectively and skillfully performed by lawyers and other staff with the appropriate level of experience.

## II. ARGUMENT

Rule 23 provides that a court may designate Interim Lead to act on behalf of a putative class before determining whether to certify the action as a class action. Fed. R. Civ. P. 23(g)(3). Courts have “broad authority in making class counsel appointments.” 7B Wright & Miller, *Fed. Practice & Procedure* § 1802.3 (3d ed. 2014). The appointment of counsel is one of the trial judge’s key organizational tools and is designed to achieve efficiency and economy without jeopardizing fairness to the parties. *See Manual for Complex Litig.* § 10.22 (4th ed. 2004); *see also MDL Standards and Best Practices*, Duke Law Center For Judicial Studies, Chapter 2, Sept. 11, 2014. That authority manifests

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<sup>3</sup> *See, e.g., In re January 28, 2021 Short Squeeze Trading Litigation*, Case No. 21-2989-MDL-ALTONAGA/Torres (S.D. Fla.).

in the framework of Rule 23(g), which “sets out the criteria and procedures for appointment of class counsel.” *Manual for Complex Litig.* § 10.224. Under that rule, courts apply the following factors: (i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel’s knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A). No single factor is determinative; all factors must be weighed to determine who can best represent the class. Fed. R. Civ. P. 23(g)(1)(C) advisory committee’s notes to 2003 amendments. The primary consideration, however, in choosing class leadership in a complex action “is achieving efficiency and economy without jeopardizing fairness to the parties.” *Manual for Complex Litig.* § 10.221 (4th ed. 2004)

**A. The Proposed Leadership Structure Meets the Standards of Rule 23(g)(1) and Will Benefit the Proposed Class**

**1. Counsel Identified, Investigated, and Developed these Claims**

In evaluating appropriate leadership, courts look to “the work counsel has put into identifying and investigating potential claims in the action.” Fed. R. Civ. P. 23(g)(1)(A)(i). Such efforts are significant. *See* William B. Rubenstein, *Newberg and Rubenstein on Class Actions* § 3:80 (6th ed. 2023). JSLF, under the direction of Joseph Saveri, along with Matthew Butterick, Bryan Clobes and Cafferty Clobes, have performed substantial work in “identifying or investigating potential claims in the action.” Fed. R. Civ. P. 23(g)(1)(A)(i). Prior to filing the initial Complaint on July 7, 2023<sup>4</sup>, JSLF undertook significant steps to identify, investigate, and advance the claims in this litigation. *See* Saveri Decl. ¶ 14. Attorneys for JSLF, along with Matthew Butterick, Bryan Clobes and Cafferty Clobes, performed substantial work investigating the merits of Plaintiffs’ claims, including extensive investigation of the AI industry as to Meta Platforms. *Id.* JSLF conducted investigations to analyze and

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<sup>4</sup> On December 11, 2023, Plaintiffs filed a First Amended Complaint (“FAC”) in the herein matter.



make a preliminary assessment of the damages, and the viability of Plaintiffs’ claims. *Id.* JSLF also conducted research on Defendants and performed legal and factual research regarding Plaintiffs’ claims under state and federal laws. *Id.* JSLF and Mr. Butterick’s knowledge of the relevant industry, of the Defendant, and of other market participants will add specialized knowledge and substantive depth to the prosecution of the claims. JSLF’s and Cafferty Clobes’s expertise in class-action practice and efficient management of complex multiparty litigation will ensure that any class-action practice will assist “the court and the parties to secure the just, speedy, and inexpensive determination” of this proceeding. Fed. R. Civ. P. 1.

Since filing the first lawsuit challenging Meta’s Llama AI products, JSLF have diligently pursued this case. Saveri Decl. ¶ 15. Defendant has been served. *Id.* Counsel for the parties have litigated Rule 12 motions. *Id.* Counsel for the parties have conducted a Rule 26(f) conference and the parties have exchanged initial disclosures. *Id.* Discovery is proceeding. *Id.* Further, in the pursuit of efficiency, counsel negotiated a stipulation with Defendant, which included an order consolidating the action. *Id.*

## **2. Mr. Saveri and JSLF Are Experienced and Possesses Knowledge of Applicable Law**

### **a. Joseph Saveri and The Joseph Saveri Law Firm (Lead Counsel)**

Based in San Francisco, California, JSLF<sup>5</sup> is recognized as the law firm spearheading the litigation against the AI industry, and specifically in cases seeking to vindicate the intellectual property rights of plaintiffs whose materials have been used to train generative AI models. *See* Saveri Decl. ¶ 3. Chambers and Partners has ranked JSLF “Band 1” (highest ranking) in its “Antitrust: Mainly Plaintiff—California” category. The American Antitrust Institute honored JSLF with its award for

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<sup>5</sup> JSLF is recognized as among the preeminent plaintiffs’ law firms in the country. Relevant awards and leadership positions can be found on the Firm’s résumé. JSLF is the only firm in California to be ranked by Chambers and Partners as “Band 1” in its “Antitrust: Mainly Plaintiff—California” category. *See* Saveri Decl. Ex. 1.

Outstanding Antitrust Litigation Achievement in Private Law Practice in 2017. Best Lawyers/U.S. News & World Report named JSLF among the Best Law Firms from 2013-2018 and the California Daily Journal selected JSLF as one of the “Top Boutiques in California.” The Daily Journal honored Mr. Saveri and other JSLF attorneys with the California Lawyer Attorney of the Year (CLAY) award in 2016. JSLF attorneys also serve in leadership positions in the American Bar Association’s Antitrust Section and the California Lawyer’s Association section on Antitrust, Unfair Competition and Privacy Law. Over the last eight years, JSLF has produced settlements totaling over \$4.7 billion in class action cases. *See* Saveri Decl. ¶ 4, Exhibit 1 (JSLF Firm Resume).

JSLF has extensive knowledge of the applicable law in this case, both with regard to federal class actions under Rule 23(b)(3) and with regard to the applicable federal and state copyright statutes and the common law. *See* Fed. R. Civ. P. 23(g)(1)(A)(iii). JSLF has particular expertise in electronic-discovery issues and has made important contributions to the development of efficient and proportional practices and procedures. Saveri Decl. ¶ 7. Joseph Saveri participated in the Federal Rules Advisory Committee Meeting, which produced the 2005 amendments to the Federal Rules and was a member of the committee of judges and lawyers that drafted the Northern District of California’s E-Discovery (ESI) Guidelines. JSLF attorneys have taken the primary role in class-certification issues, summary judgment, expert “hot tub” proceedings, trial, and appeals. While other firms may boast of a higher headcount, few, if any, can say they have as many attorneys devoted to the generative AI litigation.

JSLF is led by Joseph R. Saveri, its founder. Mr. Saveri has 35 years of experience in class actions and other complex litigation, including cases in this District. Saveri Decl. ¶ 6. Mr. Saveri is one

of the most accomplished and respected attorneys in the country.<sup>6</sup> Mr. Saveri is rated an AV preeminent by LexisNexis Martindale-Hubbell and was ranked “Band 1” attorney by Chambers USA in its “Antitrust: Mostly Plaintiff” category for 2018 and 2019. *Id.* Representative examples of JSLF’s recent appointments as lead counsel include: *In re Capacitors Antitrust Litigation*, Case No. 17-md-02801-JD (N.D. Cal.); *In re Restasis Antitrust Litigation*, MDL No. 02819 (NG) (LB) (E.D.N.Y.); *In re High-Tech Employee Antitrust Litigation*, Case No. 11-cv-2509 (N.D. Cal.); *In re Cipro Cases I and II*, JCCP Nos. 4154 and 4220 (Cal.); *In re Outpatient Medical Center Employee Antitrust Litigation*, Case No. 1:21-cv-00305 (E.D. Ill.). Saveri Decl. ¶ 3.

Few firms can match JSLF’s record. While other firms may boast a higher headcount, JSLF attorneys have recovered over \$4 billion in settlements and resolutions for the firm’s clients. In *Capacitors*, where JSLF is Lead Counsel and recently took the case to trial and achieved extraordinary results for the plaintiff class, Judge Donato remarked on the firm’s skill and expertise:

“[the] docket and the procedural history in this case demonstrate Counsel’s expertise and the Direct Purchaser Plaintiffs’ successes to date. . . . Counsel have done much to effectively prosecute the Class’ claims, and to do so efficiently. . . . Counsel have not come by their success in this litigation easily. Defendants . . . have hired the best antitrust counsel money can buy to defend them.”

No. 14-cv-03264 (N.D. Cal. June 27, 2017), ECF No. 1714 at 7.

In addition, the JSLF team also includes other key members, including attorneys Cadio Zirpoli, Christopher K.L. Young, Holden Benon, and Kathleen McMahon, and a team of paralegals, investigators, and other expert staff. Each has substantial experience in complex cases, including jury trials. For example, Mr. Zirpoli has specialized in complex civil and class-action litigation in both federal and state courts, and has worked on cases in various industries, including electronics,

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<sup>6</sup> For example, David Balto, former policy director at the FTC described Mr. Saveri as the “Michael Jordan of plaintiffs’ antitrust.” See Melissa Lipman, *Lieff Cabraser Antitrust Chief to Launch Own Firm*, LAW360 (May 1, 2012), available at <https://www.law360.com/articles/335937/lieff-cabraser-antitrust-chief-to-launch-own-firm>.

pharmaceuticals, banking, financial institutions, agriculture, travel, transportation, insurance, and more. Mr. Zirpoli played a key role in some of the largest electronics and antitrust cases on record. Saveri Decl. ¶¶ 8, 9. Mr. Young has specialized in complex civil and class-action litigation in both federal and state courts, and has worked on cases in various industries. Mr. Young's qualifications are exemplified by his invaluable work on the *Capacitors* trial. As a then-leading associate, Mr. Young played a vital role in coordinating the massive price-fixing litigation as JSLF litigated summary judgment, and tried the case in 2020 for two weeks (before the COVID-19 virus caused a mistrial), before the case was tried again in November and December of 2021. Saveri Decl. ¶ 8.

Each of JSLF's other associates, paralegals and other staff members have significant experience in litigating complex cases. Further, JSLF makes diversity a priority and is committed to providing substantive opportunities for junior members of its team, a commitment that fosters the next generation of attorneys—particularly in high-stakes cases like this one—and has produced a strong and experienced team. Saveri Decl. ¶ 9. JSLF's broad and diverse team, under the direction of experienced leadership, will ensure tasks are performed by lawyers and other staff with the appropriate level of experience (and billing rates).

### **3. Mr. Saveri and JSLF Have the Support of All Other Counsel of Record in Cases Filed in the Northern District of California**

Mr. Saveri and JSLF's expertise and experience are recognized by their peers. Matthew Butterick and Bryan Clobes, counsel of record in cases challenging Meta's Llama AI products filed in the Northern District of California and each distinguished and experienced counsel, agree and support Mr. Saveri and JSLF's appointment as interim lead counsel. All counsel of record in the cases filed in this District agree Mr. Saveri and JSLF's leadership will best serve the interests of the proposed Class. *See Manual for Complex Litig.* § 21.272 (recognizing "private ordering," i.e., "[t]he lawyers agree who should be lead class counsel and the court approves the selection after a review to ensure that the

counsel selected is adequate to represent the class interests” as an appropriate approach to appoint lead counsel.

**a. Matthew Butterick, Esq.**

Matthew Butterick is a writer, typographic designer, software programmer, and lawyer. Butterick graduated from Harvard University *magna cum laude* with a degree in visual studies. He later received a law degree from UCLA and practiced civil litigation. He is the leading authority on typography and the law, whose work is relied on by thousands of lawyers and judges worldwide. He wrote the popular reference work *Typography for Lawyers* (published by Thomson Reuters), which received the 2012 Golden Pen Award from the Legal Writing Institute. He also designed the Equity font family, widely used by lawyers and judges, including opinions and orders issued by the United States Court of Appeals for the Fifth Circuit. He has served numerous times as an expert witness on legal typography, and been a featured speaker at legal events across the country.

Mr. Butterick has also achieved acclaim as a programmer. He is a recognized expert in the field of language-oriented programming, and has written a popular web-based textbook on the topic called *Beautiful Racket*. He was part of the management team of early open-source software pioneer Red Hat, and since then has developed and released open-source software for web publishing, typesetting, creation of programming languages, and constraint-satisfaction programming (a branch of AI). Like millions of other artists and creators, his work has been used as training data in numerous commercial machine-learning models without consent. As a result of his decades of accomplishments in software, writing, and the visual arts, he was among the first lawyers to bring attention to the legal problems posed by generative AI, and the necessity of action. In collaboration with JSLF, he has been a primary architect of the first U.S. lawsuits concerning generative AI, including the instant action.

**b. Bryan Clobes of Cafferty Clobes Meriwether & Sprengel LLP**

Bryan Clobes is a named Partner at the law firm of Cafferty Clobes Meriwether & Sprengel LLP, and represents Plaintiffs Chabon, Coates, Díaz, Greer, Hwang, Klam, Lippman, Snyder,

Waldman and Woodson, who filed the first related case in this Court, and which action is now part of this consolidated proceeding. After clerking on the United States District Court for the District of New Jersey and the United States Court of Appeals for the Third Circuit, Mr. Clobes served as national trial counsel for the Commodity Futures Trading Commission in Washington D.C., where he prosecuted criminal and civil commodity fraud cases. Mr. Clobes is recognized as Martindale Hubble AV Plus, and has been a “Super Lawyer” for the past twenty years.

For the past thirty years, Mr. Clobes and Cafferty Clobes have focused on leading, managing and litigating all aspects of national antitrust and consumer class actions, and they have originated, developed, led and litigated all aspects of many of the firm’s most successful cases including, for example, *In re Insurance Brokerage Antitrust Litigation* (D.N.J.) (in excess of \$270 million in approved and distributed settlements); *In re Visacheck and Mastermoney Antitrust Litigation* (E.D.N.Y) (represented Plaintiff Burlington Coat Factory and served on the Executive Committee in an antitrust case that settled for \$3.2 billion on behalf of a national class of retailers and merchants); and *Nichols v. SmithKlineBeecham Corp.* (E. D. Pa.) (served as Co-Lead Counsel in an antitrust case that settled for \$65 million on behalf of a national class of consumers and third-party payors).

Mr. Clobes and Cafferty Clobes continue to lead many large, national class cases. For example, the firm is currently serving as one of two Co-Lead Counsel in *In re Cattle Antitrust Litigation* (D. Minn.), in which Cafferty Clobes represents a proposed class of cattle ranchers against some of the country’s largest meatpacking companies, including Tyson, Cargill, JBS, and National Beef, who allegedly have colluded to suppress the prices paid for cattle used in beef production. After defeating Defendants’ Joint Motion to Dismiss, *see In re Cattle Antitrust Litig.*, No. CV 19-1129 (JRT/HB), 2021 WL 7757881 (D. Minn. Sept. 14, 2021), the case has proceeded into discovery, which is ongoing and scheduled to be completed by this summer, with class certification briefing to follow. By way of further example, Mr. Clobes and the firm also represent one of the largest family farms in the country

and serve on the Executive Committee in an antitrust case against John Deere on behalf of a national class of farmers relating to the right to repair their tractors and farm equipment. As in *Cattle*, Plaintiffs in *Deere* defeated Defendant’s recent motion to dismiss and the case is in early discovery. *In re Deere & Co. Repair Serv. Antitrust Litig.*, No. 3:22-CV-50188, 2023 WL 8190256 (N.D. Ill. Nov. 27, 2023).

#### **4. Counsel Has Sufficient Resources to Litigate this Case**

JSLF is an experienced class action firm and can dedicate the substantial human and financial resources necessary to effectively prosecute this case. JSLF routinely advances significant costs of litigation without the use of outside litigation funds and is prepared to do so here.<sup>7</sup> Saveri Decl. ¶ 18. JSLF is comprised of highly experienced attorneys and has ample support staff to manage and staff a large, complex action such as this one, and to do so in a cost-efficient manner. *Id.* ¶ 18. Counsel has a reputation for dealing cooperatively with co-counsel, defense counsel, and the Court, which will minimize conflict and avoid unnecessary cost and expense. *Id.* ¶ 17. Counsel has already committed human and financial resources toward the prosecution of this case by engaging experts to help plan the necessary discovery and strategy to achieve the best possible result for the Class. As demonstrated by the excellent results achieved in past cases, JSLF is committed to providing the resources required to prosecute this litigation through all phases, including through the complexities of motion practice, discovery, class certification, summary judgment, alternative dispute resolution options, and trial.

#### **5. Other Factors Support JSLF’s Appointment**

In addition to the enumerated factors set forth in Rule 23(g), in determining the best counsel for the class, the Court may also “consider any other matter pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” Fed. R. Civ. P. 23(g)(1)(B)-(C).

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<sup>7</sup> JSLF invested almost \$9 million itself in connection with the pending *Capacitors* litigation, including taking the case to trial—twice.

Given the complex nature of the claims in this case, this litigation may not only take a good amount of skill, expertise, and resources, but it will also require a leadership team that operates efficiently together. As pointed out in the *Manual for Complex Litigation* (4th ed. 2004):

The just and efficient resolution of this case may depend in large part upon the way the attorneys comport themselves and how they overcome conflicts. ‘The added demands and burdens of complex litigation place a premium on professionalism.’ *Manual for Complex Litigation*, Third § 20.21. ‘An attitude by counsel of cooperation, professional courtesy, and acceptance of the obligations owed as officers of the court is critical to successful management of the litigation.’ *Id.* ‘Counsel need to perform their obligations as advocates in a manner that will foster and sustain good working relations among themselves and with the court.’ *Id.* Thus, cooperation, courtesy and professionalism will be the hallmark throughout this litigation.

*Id.* § 10.21 at 37. JSLF exemplifies these qualities. JSLF has a history of working collaboratively and inclusively in leadership positions, providing strong direction but also listening to co-counsel, resolving differences equitably, providing opportunities to diverse and young attorneys, and distributing work fairly and in a way that promotes the most efficient use of the collective resources of co-counsel. Likewise, JSLF has a long history of collaborative professional relationships with its adversaries. JSLF recognizes that it owes a duty of professionalism to its clients, opposing parties and their counsel, the courts, and the public as a whole. *See Guidelines for Professional Conduct*, <https://www.cand.uscourts.gov/forms/guidelines-for-professional-conduct/>. JSLF will adhere to those principles here.

Additionally, JSLF has established efficient case management and billing protocols in other cases where it serves in leadership roles and will do so here if appointed as lead counsel. A small, well-qualified select team of JSLF attorneys, along with Matthew Butterick, Bryan Clobes and Cafferty Clobes, will oversee case strategy, document review, take related depositions, and draft well-supported briefs. There will be no block billing, and time will be entered contemporaneously.



### III. CONCLUSION

For the foregoing reasons, the Court should appoint Joseph Saveri and JSLF as Plaintiffs’

Interim Lead Class Counsel.

Dated: December 21, 2023

By: /s/ Joseph R. Saveri  
Joseph R. Saveri

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